

By

C. Evans

H. B. No. 2288

A BILL TO BE ENTITLED

AN ACT

relating to jurisdiction over underground water in critical areas and addition of territory to and adoption and collection of fees by underground water conservation districts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 52.0611, Water Code, is amended to read as follows:

Sec. 52.0611. ASSUMPTION OF JURISDICTION ON FAILURE TO CREATE DISTRICT. (a) If the voters in a critical area fail to approve the creation of a district, the commission by order may assume jurisdiction over the regulation of underground water within the boundaries of the critical area.

(b) In addition to any other authority, the commission may exercise the authority granted to a district created under this chapter to administer the critical area.

(c) The commission may issue permits for water wells within a critical area and may charge fees. The revenue from fees charged in the critical area shall be applied to the cost to the commission of administering the regulatory program under this section in the critical area.

(d) Any rules that the commission adopts pursuant to this section shall be adopted in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). The rules may apply within any part of the

1 territory of a city, county, district, authority, or other
2 political subdivision of the state that is located within the
3 critical area.

4 (e) Except as specifically required by Subsection (f) of
5 this section, the commission may relinquish jurisdiction over the
6 critical area at any time.

7 (f) On or after the first anniversary of the date on which
8 the commission assumes jurisdiction over a critical area, a
9 majority or 50 or more of the voters in the critical area,
10 whichever number is less, may petition the commission to appoint
11 temporary directors to call another election in the critical area
12 to approve the creation of a district. If the commission
13 determines that the creation of the district will benefit the
14 critical area, the commission shall appoint temporary directors and
15 shall issue an order directing that an election for the district be
16 held. If the commission receives a petition to create a district
17 in a critical area under this subsection, the commission must
18 retain jurisdiction over underground water in the critical area at
19 least until the election is held and the results declared. [STATE

20 ASSISTANCE:--A-city,-county,-or-district-created-under-Article-III,
21 Section-52(b)(1)-and-(2),-or-Article-XVI,-Section-59,-of-the--Texas
22 Constitution--that--is--located-in-an-area-delineated-as-a-critical
23 area-under-this-chapter-and-in-which-the-qualified-voters--fail--to
24 approve--the--creation-of-a-district-is-not-eligible-to-receive-any
25 financial-assistance-from-the-state-under-Chapter-15,-16,-or-17--of
26 this-code.]

27 SECTION 2. Chapter 52, Water Code, is amended by adding

1 Section 52.0241 to read as follows:

2 Sec. 52.0241. ADDING TERRITORY TO AN EXISTING DISTRICT. (a)

3 If territory in a management area is located outside of and
4 adjacent to an existing district, the executive director or any
5 person who resides in the territory or owns land in the territory
6 may petition the commission to order an election to determine
7 whether the territory should be added to an existing district
8 designated by the commission. Also, the commission may institute
9 proceedings on its own motion to order this election.

10 (b) A petition shall include a description of the boundaries
11 of the territory to be added to the existing district and any other
12 information the commission requires. A bond or deposit in an
13 amount sufficient to pay the costs of an election held under this
14 section shall accompany this petition, and the commission may
15 require an additional bond or deposit.

16 (c) Before the commission orders an election to be held, the
17 commission must submit a copy of the petition, if any, to the board
18 of the district to which the territory is proposed to be added.
19 Not later than the 60th day after the date on which the board
20 receives the petition, the board shall vote on whether or not to
21 accept the additional territory as part of the district. The
22 governing board shall give notice to the commission of its decision
23 in writing not later than the 10th day after the date on which the
24 board votes on the addition of the territory. The copy of the
25 petition and the notice required to be provided by this subsection
26 must be sent by certified or registered mail return receipt
27 requested.

1 (d) If the board votes to accept the territory, the
2 commission shall order an election in the territory to determine if
3 the territory should be added to the district and to authorize the
4 territory to assume a proportionate share of the district's
5 outstanding indebtedness. If the board votes not to accept the
6 territory as part of the district, the commission may not order an
7 election and the territory may not be added to the district.

8 (e) Before ordering an election to be called, the commission
9 must find that:

10 (1) the property in the territory and the property in
11 the existing district will benefit from the addition of the
12 territory to the district;

13 (2) there is a public need to add the territory to the
14 district; and

15 (3) addition of the territory to the district will
16 further the public welfare.

17 (f) In the election order, the commission shall include a
18 delineation of the boundaries of the territory and designate the
19 district to which the territory is to be added.

20 (g) The commission shall submit a copy of its order to the
21 district's board. Not later than the 10th day after the date the
22 district receives the copy of the commission's order, the board
23 shall call an election in the territory. Except as specifically
24 provided by this section, the election shall be called and held as
25 provided by the Election Code.

26 (h) The board shall give notice of the election by
27 publishing notice at least one time in one or more newspapers with

1 general circulation in the territory. The notice must be published
2 before the 30th day preceding the date set for the election.

3 (i) The ballots for the election shall be printed to provide
4 for voting for or against: "The inclusion of (briefly describe the
5 territory to be added to the district) in the _____ District and
6 assumption by the territory of a proportional share of the
7 outstanding indebtedness of the district."

8 (j) After the election, the presiding judge of each polling
9 place shall deliver the returns of the election to the board and
10 the board shall canvass the results. If a majority of the voters
11 in the territory voting in the election vote to add the territory
12 to the district, the board shall declare the territory added to the
13 district. If a majority of the voters in the territory voting in
14 the election vote against adding the territory to the district, the
15 board shall declare that the territory is not added to the
16 district. The board shall file a copy of the election results with
17 the commission.

18 (k) If the voters approve adding the territory to the
19 district, the costs of the election shall be paid by the district
20 as expanded. On written request of a person presenting a petition
21 under Subsection (a) of this section, the commission shall order
22 the bond or deposit submitted with the petition to be returned to
23 the petitioner.

24 (l) If the territory is not added to the district, the cost
25 of the election shall be paid as follows:

26 (1) if a bond or deposit is submitted, the commission
27 shall use the proceeds of the bond or deposit to pay the election

1 costs on petition of the district for payment; or

2 (2) if the executive director or commission initiated
3 the election procedure, the commission shall pay the cost of the
4 election.

5 (m) If a district petitions under Subsection (1)(1) of this
6 section for use of the bond or deposit to pay for the election, the
7 board shall include with the petition a sworn account of the costs
8 of the election and the commission shall order that those costs be
9 paid from the proceeds of the bond or deposit. The commission may
10 order either that the expenses be paid to the persons to whom they
11 are owed or that the district be reimbursed. If the costs exceed
12 the amount of the bond or deposit, the commission shall pay the
13 excess costs. Any proceeds from the bond or deposit that remain
14 after payment of all expenses shall be returned to the petitioner.

15 (n) If territory is added to an existing district, the board
16 shall provide for reasonable representation of the territory on the
17 board that is compatible with the district's existing scheme of
18 representation.

19 (o) If a proposition to add territory to a district fails,
20 another election may not be held before the first anniversary of
21 the date on which the election at which the proposition failed was
22 held.

23 (p) Notwithstanding Section 52.026 of this code, this
24 section applies to territory added to districts under this
25 subchapter and Subchapter C of this chapter.

26 SECTION 3. Chapter 52, Water Code, is amended by adding
27 Section 52.262 to read as follows:

1 Sec. 52.262. FEES. (a) A district may establish and
2 collect fees necessary for the administration and operation of the
3 district.

4 (b) The fees collected under this section may be used to
5 cover the cost incurred by the district in issuing permits and
6 performing other regulatory functions authorized by this
7 subchapter. Also, fees may be used to pay the operating and
8 maintenance expenses of the district and the principal of and
9 interest on bonds and notes of the district.

10 SECTION 4. Section 52.292, Water Code, is amended to read as
11 follows:

12 Sec. 52.292. MANNER OF REPAYMENT OF BONDS AND NOTES. The
13 board may provide for the payment of principal of and interest on
14 the bonds and notes in any one of the following manners:

15 (1) from the levy and collection of ad valorem taxes
16 on all taxable property within the district;

17 (2) from fees imposed under Section 52.171 of this
18 code;

19 (3) by pledging all or any part of the designated
20 revenues from the ownership or operation of the district's works,
21 improvements, and facilities and from the sale, transportation, and
22 distribution of water; [e]

23 (4) from fees imposed under Section 52.262 of this
24 code; or

25 (5) from a combination of the sources listed in
26 [~~Subdivisions-(1)-(3)-of~~] this section.

27 SECTION 5. This Act takes effect September 1, 1987.

1 SECTION 6. The importance of this legislation and the
2 crowded condition of the calendars in both houses create an
3 emergency and an imperative public necessity that the
4 constitutional rule requiring bills to be read on three several
5 days in each house be suspended, and this rule is hereby suspended.

H. B. No.

2288

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relating to jurisdiction over underground water in critical areas and addition of territory to and adoption and collection of fees by underground water conservation districts.

MAR 13 1987

MAR 30 1987

1. Filed with the Chief Clerk.

2. Read first time and Referred to Committee on

Natural Resources

3. Reported ___ favorably (as amended) (as substituted) and sent to Printer at ___

4. Printed and distributed at ___

5. Sent to Committee on Calendars at ___

6. Read second time (amended); passed to third reading (failed) by (Non-Record Vote) (Record Vote of ___ yeas, ___ nays, ___ present, not voting).

7. Motion to reconsider and table the vote by which H.B. ___ was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of ___ yeas, ___ nays, and ___ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of ___ yeas, ___ nays, and ___ present, not voting.

9. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote of ___ yeas, ___ nays, ___ present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. ___ was finally passed prevailed (failed) by a (Non-Record Vote) (Record Vote of ___ yeas, ___ nays, and ___ present, not voting).

12. Ordered Engrossed at ___

13. Engrossed.

14. Returned to Chief Clerk at ___

15. Sent to Senate.

Chief Clerk of the House

16. Received from the House

17. Read, referred to Committee on ___

18. Reported favorably

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

20. Ordered not printed.

21. Regular order of business suspended by (a viva voce vote.) (___ yeas, ___ nays.)

_____ 22. To permit consideration, reading and passage, Senate and Constitutional Rules
suspended by vote of _____ yeas, _____ nays.

_____ 23. Read second time _____ passed to third reading by:
(a viva voce vote.)
(_____ yeas, _____ nays.)

_____ 24. Caption ordered amended to conform to body of bill.

_____ 25. Senate and Constitutional 3-Day Rules suspended by vote of _____ yeas,
_____ nays to place bill on third reading and final passage.

_____ 26. Read third time and passed by
(a viva voce vote.)
(_____ yeas, _____ nays.)

OTHER ACTION: OTHER ACTION:

Secretary of the Senate

_____ 27. Returned to the House.

_____ 28. Received from the Senate (with amendments.)
(as substituted.)

_____ 29. House (Concurred) (Refused to Concur) in Senate (Amendments) by a (Non-Record
(Substitute) Vote) (Record Vote of _____ yeas, _____ nays, _____ present,
not voting).

_____ 30. Conference Committee Ordered.

_____ 31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record
Vote of _____ yeas, _____ nays, and _____ present, not voting).

_____ 32. Ordered Enrolled at _____